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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,147	02/05/2001	Glenn W. Palmway-Riley		7070

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EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/776,147

Applicant(s)

PALMWAY-RILEY, GLENN W.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

*pm*

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **Detailed Action**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on 2/22/00. It is noted, however, that applicant has not filed a certified copy of the Australian provisional application as required by 35 U.S.C. 119(b). The declaration states that a copy of the foreign priority is attached to the application, but there is no copy of the foreign application in the file.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the words "disclosed" and "said", and the abstract contains the title of the application in its contents. Correction is required. See MPEP § 608.01(b).

*Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-4 and 7-10 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claims 2-4 and 7-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The language “modified to vary or enhance ...” in these claims is vague and indefinite since it is unclear how the device is modified to achieve such results.

Regarding claim 10, it is improper to rely on the disclosure and the drawings to claim the hook, fly, or lure since it is not clear what the specific metes and bounds of patent protection that is desired. Rather, applicant should structurally claim the features of the invention.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,960,437 to Watson et al. in view of U.S. Patent No. 2,662,996 to Martin.

Referring to claim 1, Watson et al. discloses a conductive fish hook – 10 – see column 3 lines 67-68 and column 4 lines 1-7 which describes the fish hook as being the standard type used for fishing. The standard type hooks are made of metal and it is known that metal is a conductor of electricity, thus the hook – 10 is conductive. Watson et al. discloses an oscillator – 12 connected to the hook – 10. Watson et al. does not disclose an electromagnetic fish hook comprising an insulating layer and a conductive winding. Martin does disclose an electromagnetic device – 10 comprising an insulating layer – 30 and a conductive winding – 36. Therefore it would have been obvious to one of ordinary skill in the art to take the fishing hook of Watson et al. and replace the oscillator with the electromagnetic device including insulator and conductive winding of Martin to form an electromagnetic field generating fish hook, so as to make the fish hook attractive to fish.

Referring to claim 2, it would be obvious to one of ordinary skill in the art to modify the conductive fish hook component to vary or enhance the generated electromagnetic field, because of the many different factors affecting fishermen including the size of the fish, the conditions of the water, and depth at which the fisherman is fishing thus it would be advantageous and obvious to modify the conductive fish hook for whatever the conditions are that the fisherman encounters while fishing.

Referring to claim 3, it would be obvious to one of ordinary skill in the art to modify the insulating layer component to vary or enhance the generated electromagnetic field, because of the many different factors affecting fishermen including the size of the fish, the conditions of the water, and depth at which the fisherman is fishing thus it would be advantageous and obvious to modify the conductive fish hook for whatever the conditions are that the fisherman encounters while fishing.

Referring to claim 4, it would be obvious to one of ordinary skill in the art to modify the conductive winding component to vary or enhance the generated electromagnetic field, because of the many different factors affecting fishermen including the size of the fish, the conditions of the water, and depth at which the fisherman is fishing thus it would be advantageous and obvious to modify the conductive fish hook for whatever the conditions are that the fisherman encounters while fishing.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Watson et al. in view of Martin et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,003,264 to Hnizdor. Watson et al. and Martin do not disclose a fishing fly. Hnizdor does disclose a fishing fly – see figure 4 which shows the fishing fly. Therefore it would have been

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obvious to one of ordinary skill in the art to take the electromagnetic fishing hook of Watson et al. and Martin and include it in the fishing fly of Hnizdor, so as to make the fishing fly more attractive to fish.

Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,108,963 to Lucas et al in view of Martin.

Referring to claim 6, Lucas et al. discloses an electromagnetic fishing lure – 15 and 17 – see column 3 lines 54-57 which describe – 15 and 17 as being the walls of a fishing lure, comprising a conductive core – 25 and a conductive winding – 21. Lucas et al. does not disclose an insulating layer. Martin does disclose an insulating layer – 30. Therefore it would have been obvious to one of ordinary skill in the art to take the electromagnetic fishing lure of Lucas et al. and add the insulating layer of Martin, so as to make the lure more attractive to fish.

Referring to claim 7, it would be obvious to one of ordinary skill in the art to modify the conductive core component to vary or enhance the generated electromagnetic field, because of the many different factors affecting fishermen including the size of the fish, the conditions of the water, and depth at which the fisherman is fishing thus it would be advantageous and obvious to modify the conductive fish hook for whatever the conditions are that the fisherman encounters while fishing.

Referring to claim 8, it would be obvious to one of ordinary skill in the art to modify the insulating layer component to vary or enhance the generated electromagnetic field, because of the many different factors affecting fishermen including the size of the fish, the conditions of the water, and depth at which the fisherman is fishing thus it would be advantageous and obvious to

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modify the conductive fish hook for whatever the conditions are that the fisherman encounters while fishing.

Referring to claim 9, it would be obvious to one of ordinary skill in the art to modify the conductive winding component to vary or enhance the generated electromagnetic field, because of the many different factors affecting fishermen including the size of the fish, the conditions of the water, and depth at which the fisherman is fishing thus it would be advantageous and obvious to modify the conductive fish hook for whatever the conditions are that the fisherman encounters while fishing.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to electromagnetic fishing hooks, flies and lures in general:

U.S. Pat. No. 5,351,431 to Ryu – shows an electromagnetic fishing float

U.S. Pat. No. 5,175,950 to Linder – shows an electromagnetic fishing lure

U.S. Pat. No. 6,247,261 to Kechriotis – shows an electronic fishing lure

WO Pat. No. 9426101 to Verburg - shows an electronic fishing lure



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6. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



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